

RECEIPT NUMBER

530772

ORIGINAL

UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN -- SOUTHERN DIVISION

LESLIE PURNELL
Plaintiff

-vs-

JUDGE : Cleland, Robert H.
DECK : S. Division Civil Deck
DATE : 09/01/2005 @ 13:06:21
CASE NUMBER : 2:05CV73384
CMP LESLIE PURNELL V. ARROW
FINANCIAL SERVICES, SI, TAM

DEMAND FOR JURY TRIAL

ARROW FINANCIAL SERVICES, LLC,
Defendant

MAGISTRATE JUDGE KOMIVES

COMPLAINT & JURY DEMAND

Leslie Purnell states the following claims for relief:

JURISDICTION

1. This court has jurisdiction under the FDCPA, 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

PARTIES

3. The Plaintiff to this lawsuit is Leslie Purnell who resides in Detroit, MI 48221.
4. The Defendants to this lawsuit is Arrow Financial Services, LLC ("Arrow Financial") which is a corporation doing business in Michigan at 5996 W. Touhy Ave., Niles, IL 60717, and whose resident agent, The Corporation Company, maintains its office at

30600 Telegraph Road Suite 2345 , Bingham Farms, MI 48025.

5. At all relevant times Arrow Financial -- in the ordinary course of its business -- regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
6. Arrow Financial is a debt collector" under the FDCPA, 15 U.S.C. §1692(6)
7. Arrow Financial is a "collection agency" under the Michigan Occupational Code, M.C.L. §399.902(b); alternatively Arrow Financial is a "regulated person" under the Michigan Debt Collection Practices Act, M.C.L. § 445.251(g)(xi).

VENUE

8. The transactions and occurrences which give rise to this action occurred in Wayne County.
9. Venue is proper in the Eastern District of Michigan.

GENERAL ALLEGATIONS

10. Some time prior to , Arrow Financial was engaged to collect a debt originating during the 1980's from the fraudulent purchase of a set of tires from Montgomery Wards by a thief.
11. Mr. Purnell disputed that debt with Montgomery Wards and its credit card servicers and heard nothing more of the debt until the mid 1990's, at which time another entity sought to collect the debt.
12. Mr. Purnell again disputed the debt and heard nothing more until approximately

calendar year 2001 when Arrow contacted him to collect the debt which was at that time approximately fifteen years old.

13. Arrow then posted the account information regarding the debt to Mr. Purnell's consumer reports thereby making false representations of the amount owed, the fact that Mr. Purnell owed the amount, and the date of last activity of the debt.
14. As a direct result of this activity by Arrow, Mr. Purnell suffered damages in the form of increased insurance rates on his homeowners and auto insurance.

COUNT I – Fair Debt Collection Practices Act (Arrow Financial)

15. Mr. Purnell incorporates the preceding allegations by reference.
16. Arrow Financial has engaged in violations of the FDCPA including, but not limited to the following:
 - a. Arrow Financial used generally false, misleading or unfair methods to collect the debt., in violation of the general prohibitions in 15 U.S.C. §1692c.
 - b. Arrow Financial made a false representation of-- (A) the character, amount, or legal status of the debt; or (B) any services rendered or compensation which may be lawfully received by Arrow Financial for the collection of the debt, in violation of 15 U.S.C. §1692c(2).
 - c. Arrow Financial communicated or threatened to communicate credit information which is known or which should be known to be false, in violation of 15 U.S.C. §1692c(8).

d. Arrow Financial collected an amount without express authorization under the agreement creating the debt or other statutory authority in violation of 15 U.S.C. 1692(f)(1).

17. Mr. Purnell has suffered damages as a result of Arrow Financial's violations of the FDCPA.

COUNT II – Michigan Occupational Code (alternative to Count III)

18. Mr. Purnell incorporates the preceding allegations by reference.

19. Arrow Financial Services, LLC is a "collection agency" as that term is defined in M.C.L. §339.901(b).

20. Mr. Purnell is a debtor as that term is defined in M.C.L. §339.901(f).

21. Arrow Financial Services, LLC's foregoing acts in attempting to collect this alleged debt against Mr. Purnell constitute violations of the Occupational Code including but not limited to the following:

- a. (a) Communicating with a debtor in a misleading or deceptive manner, such as using the stationery of an attorney or the stationery of a credit bureau unless it is disclosed that it is the collection department of the credit bureau.
- b. (c) Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt or concealing or not revealing the purpose of a communication when it is made in connection with collecting a debt.
- c. (f) Misrepresenting in a communication with a debtor any of the following:(i)

The legal status of a legal action being taken or threatened. (ii) The legal rights of the creditor or debtor. (iii) That the nonpayment of a debt will result in the debtor's arrest or imprisonment, or the seizure, garnishment, attachment, or sale of the debtor's property. (iv) That accounts have been turned over to innocent purchasers for value.

22. Mr. Purnell has suffered damages as a result of Arrow Financial's violations of the Michigan Occupational Code.
23. Arrow Financial's violations of the Michigan Occupational Code were willful.

COUNT III – Michigan Debt Collection Practices Act (alternative to Count II)

24. Mr. Purnell incorporates the preceding allegations by reference.
25. Arrow Financial violated the Michigan Collection Practices Act, M.C.L. §445.251 *et seq.* include, but are not limited to, the following
 - a. Communicating with a debtor in a misleading or deceptive manner, such as using the stationery of an attorney or credit bureau unless the regulated person is an attorney or is a credit bureau and it is disclosed that it is the collection department of the credit bureau, in violation of M.C.L. §445.252(a).
 - b. Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt or concealing or not revealing the purpose of a communication when it is made in connection with collecting a debt in violation of M.C.L. §445.252(c).

- c. Misrepresenting in a communication with a debtor 1 or more of the following in violation of M.C.L. §445.252(f):
 - i. The legal status of a legal action being taken or threatened.
 - ii. The legal rights of the creditor or debtor.
 - iii. That the nonpayment of a debt will result in the debtor's arrest or imprisonment, or the seizure, garnishment, attachment, or sale of the debtor's property.
 - iv. That accounts have been turned over to innocent purchasers for value.

26. Mr. Purnell has suffered damages as a result of Arrow Financial's violations of the Michigan Collection Practices Act.

DEMAND FOR JURY TRIAL

27. Plaintiff demands trial by jury in this action.

DEMAND FOR JUDGMENT FOR RELIEF

28. *Accordingly, Mr. Purnell requests that the Court grant:*

- a. Actual damages.*
- b. Statutory damages.*
- c. Treble damages.*
- d. Statutory costs and attorney fees.*

Respectfully Submitted,

LYNGKLIP & TAUB
CONSUMER LAW GROUP, PLC

By: 

Ian B. Lyngklip P47173

Attorney For Leslie Purnell

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Dated: August 31, 2005

ORIGINAL

JS 44 11/99

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: Wayne

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

LESLIE PURNELL

DEFENDANTS

ARROW FINANCIAL SERVICES, LLC

(b) County of Residence of First Listed

Wayne

County of Residence of First Listed

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Lyngklip & Taub Consumer Law Group, PLC
24500 Northwestern Hwy., Ste. 206, Southfield, MI 48075
(748) 746-3790

Attorneys (If Known)

05-73384

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ PLA 1 ☐ DEF 1 Incorporated or Principal Place of Business in This State ☐ PLA 4 ☐ DEF 4
- Citizen of Another ☐ PLA 2 ☐ DEF 2 Incorporated and Principal of Business in Another State ☐ PLA 5 ☐ DEF 5
- Citizen or Subject of a Foreign Country ☐ PLA 3 ☐ DEF 3 Foreign Nation ☐ PLA 6 ☐ DEF 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Inj/Vry - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 758 <input type="checkbox"/> 423 Withdrawal 28 USC 157-159 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DMCD/WW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer-Influenced & Corrupt Organizations <input type="checkbox"/> 800 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input checked="" type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

Transferred from another district

Appeal to District

5 (specify)

6 Multi district Litigation

7 Judge from Magistrate

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Plaintiff brings this cause of action for violations of the FDCA 15 U.S.C. §1692c, and M.C.L. §339.901

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

\$ DEMAND

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) instructions: IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

7/1/05

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
